

The Restriction Requirement restricts the application to the three groups set forth below.

- I - Claims 1-18 and 25, drawn to compositions;
- II - Claims 19-22, drawn to methods of making;
- III - Claim 23, drawn to a device; and
- IV - Claim 24, drawn to a method of use.

As the single disclosed species elected, applicants elect the mixture according to Example 2, which contains 33.1 wt.% 5-aminotetrazole, 52.3 wt.% sodium nitrate, 10.1 wt.% potassium nitrate, 3 wt.% zinc oxide, 1.0 wt.% zinc peroxide and 0.5 wt.% graphite.

Claim 24 is amended to recite a method step in accordance with the Examiner's recommendation.

Discussion

37 C.F.R. 1.475 provides for unity of invention practice before the International Searching Authority, the International Preliminary Examining Authority, and during the national stage. 37 C.F.R. 1.475 (b)(3) states that a product, a process especially adapted for the manufacture of the product and a use of the product, will be considered to have unity of invention. In the present case, the gas producing agent of Group I (claims 1-18 and 25), the method of producing the gas producing agent Group II (claims 19-22) and the method of using the gas producing agent of Group IV (claim 24), all possess unity of invention according to 37 C.F.R. 1.475 (b)(3), and should be examined in a single application.

Moreover, it is respectfully submitted the subject matter of all the claims is sufficiently related that a thorough search for the subject matter of any one group of claims would encompass search for the subject matter for the remaining claims. "If the search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and independent inventions." See MPEP Section 803. In particular, a search for Group II, methods of making the gas producing agent, is the exact same search as the search for the Group IV, methods of using the gas producing agent. Therefore, at least these two groups should be examined in the same application.

In accordance with MPEP 809.02(c) applicants request that if a generic claim is found to be allowable in the application that non-elected species be no longer withdrawn if they are fully embraced by the allowed generic claim.

It is further submitted that in view of the fees charged by filing a divisional application and prosecution and printing of the resulting patents place an undue burden on the applicants which requires that any restriction or election requirement be clearly supported and made according to the rule.

In order to avoid unnecessary delay and expense to applicants and duplication of examination by the Patent Office, withdrawal of the restriction requirement is requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 01-2135 and please credit any excess fees to such deposit account.

Respectfully submitted,

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